

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MR. JERMAINE COOK,

Plaintiff,

v.

DECISION AND ORDER
15-CV-272-A

SERGEANT DUNBAR, CORRECTION
OFFICER VOSBURG, C.O. WEAVER,
and M. MARZEC, RN,

Defendants.

This prisoner's civil rights case filed by *pro se* plaintiff Jermaine Cook was referred to Magistrate Judge Leslie G. Foschio pursuant to 28 U.S.C. § 636(b)(1) for the conduct of pretrial proceedings. On March 26, 2019, Magistrate Judge Foschio filed a Report and Recommendation (Dkt. No. 36), recommending that defendant N. Marzec's motion pursuant to Fed. R. Civ. P. 56 for summary judgment (Dkt. No. 23) be denied.

On April 9, 2019, defendant Marzec filed objections to the Report and Recommendation. Dkt. No. 37; *see also* Dkt. No. 38. *Pro se* plaintiff filed a response on August 19, 2019 (Dkt. No. 46), and defendant Marzec filed a reply on October 11, 2019. Dkt. No. 48. The matter was deemed submitted.

Pursuant to 28 U.S.C. §636(b)(1), the Court makes a *de novo* determination of those portions of the Report and Recommendation to which objections have been made. Upon *de novo* review, and for the reasons stated in the Report and

Recommendation, the Court adopts the conclusion in the Report and Recommendation, and it is hereby

ORDERED that defendant Marzec's motion pursuant to Fed. R. Civ. P. 56 for summary judgment (Dkt. No. 23) is denied, and it is further

ORDERED that all parties shall confer and shall each file a brief statement on or before December 4, 2019 indicating whether the party favors mediation toward a possible pre-trial settlement by a Court-appointed mediator.

IT IS SO ORDERED.

s/Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: November 4, 2019